REMARKS

In the Office Action mailed on February 19, 2004 by the United States Patent and Trademark Office, the Examiner rejected claims 1-27. Applicant has amended claims 1-4, 10, 11, 13, 14, 19-20, 22 and 23. Claims 6-9, 15-18 and 24-27 have been cancelled. After entry of this Amendment, claims 1-5, 10-14 and 19-23 remain in this application. Reconsideration is respectfully requested in light of the foregoing amendments and the following remarks. The foregoing amendments and the following remarks are believed to be fully responsive to the Office Action mailed February 19, 2004 and also render all currently pending claims at issue patentably distinct over the references of record.

I.   REJECTIONS UNDER 35 U.S.C. 103

The Examiner rejected claims 1, 10, and 19 under 35 U.S.C. 103(a) as being unpatentable over Law, Jr. et al. (Law) US Patent 6,370,654, and further in view of Tosey, et al. (Tosey) US Patent 6,392,990. Applicant respectfully traverses this rejection.

Claim 1 has been amended to include the limitations of claim 6 and 7. Specifically, claim 1, as amended, recites, in part:

> prior to sending data from one of the fault tolerant network nodes
> to a selected one of the non-fault tolerant nodes, searching the stored
> detected network addresses and associated data to determine if the network
> address and associated network data of the selected one of the non-fault
> tolerant is stored;
>
> if the network address and associated data is stored for the selected
> non-fault tolerant node, sending data intended for the selected non-fault
> tolerant network node over only the network to which the non-fault
> tolerant network node is coupled; and
>
> if the network address and associated data is not stored for the
> selected non-fault tolerant node, sending data intended for the selected
> non-fault tolerant network node over the plurality of networks.

These limitations are not found in the Law/Tosey combination. For example, Law shows a fault tolerant network node connected to a plurality of non-fault tolerant network

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nodes with a single connection between each of the fault tolerant network node and the non-fault tolerant network nodes. Therefore, Law does not disclose, teach or suggest "if the network address and associated data is stored for the selected non-fault tolerant node, sending data intended for the selected non-fault tolerant network node over only the network to which the non-fault tolerant network node is coupled; and if the network address and associated data is not stored for the selected non-fault tolerant node, sending data intended for the selected non-fault tolerant network node over the plurality of networks", since Law does not disclose a plurality of networks with one network coupled to the non-fault tolerant network and others not attached and, when the non-fault network can not be found, sending data for a particular non-fault network node over a plurality of networks.

Note that connections 17c and 17d of Fig. 1 of Law can not be the plurality of networks with the non-fault tolerant network node attached to one of these network connections. In Law, communication is first directed, over a single network connection, to the first of a series of non-fault tolerant nodes. If the first non-fault tolerant node is unavailable, a second connection is then used to send a second non-fault tolerant node the data. At no time in Law is data sent for a specific node over two different networks. Instead, each separate time data is sent to a single node over a single network. (Law, Column 33, lines 34-45).

The addition of Tosey does not solve the shortcomings of Law. The Examiner argues that column 3, lines 20-34 disclose the sending of data to a specific non-fault tolerant node via a plurality of networks. However, Tosey states that when there is a failure in one route in a network, the use of a routing table can help reroute the data. In Tosey, the data is sent over a first rout to a specific node and only that route. If there is a failure then another route is chosen. At no time is data meant for a specific node sent at the same time via more than one networks or even more than one path through a network.

Therefore, Law and Tosey, individually or in combination, fail to disclose teach or suggest all of the limitations of claim 1. Claim 1 and claims 2-5 which depend from claim 1 are in condition for allowance.

Independent claims 10 and 19 have been amended to claim similar limitations as that of claim 1. Therefore, for the reasons discussed above, claim 10 and its dependent claims 11-14 and claim 19 and its dependent claims 20-23 are also in condition for allowance.

Law and Tosey also fail to teach all limitations of the present invention because Law and Tosey fail to disclose teach or suggest "determining which of the network of the plurality of networks to which the non-fault tolerant network nodes are coupled", as in claim 1. The Examiner argues that this is shown by the two connections, 17c and 17d, of Fig. 1 of Law, to which the non-fault tolerant nodes are coupled. However, this is not accurate. As Law discloses, each of the non-fault tolerant nodes are coupled to the fault tolerant node by its own dedicated connection. There is not a plurality of networks provide for the non-fault tolerant network, with the non-fault tolerant network connected to one of the plurality of networks.

In response to this argument, the Examiner, in the Office Action of February 19, 2004, argued first that only one of the combination of references argued and that one can not argue references individually when the rejections are based on a combination of references. That argument does not apply here. It was the Examiner who made the claim that Law disclosed the limitation. The Examiner never argued the limitation was disclosed in Tosey. Logically, if the Examiner is wrong that the claimed limitation can be found in Law, then the addition of Tosey does not make up for the failure of Law to disclose the claimed limitations.

The Examiner further argues that 17c of figure 1 of Law is the primary network and 17d is the redundant network. Of course, as discussed above, at no time does the non-fault tolerant node have the possibility of being connected to one node or the other. Hence, there is no need to detect which network the non-fault tolerant network node is attached to, and that is why Law fails to disclose detecting to which network a non-fault tolerant node is attached; Law simply uses the nodes in order when there is a failure. Tosey does not solve the failure of Law to disclose this limitation.

Therefore, claims 1 and its dependent claims 2-5 are in condition for allowance. Since independent claims 10 and 19 have similar limitations, claims 10-14 and 19-23 are in condition for allowance.

Also, there is no suggestion or teaching the make the proposed combination. As is well known, the suggestion to combine the references must come from the references themselves and not be based on hindsight reconstruction. The Examiner argues that the motivation to combine is that Law and Tosey are in similar areas of endeavor and that Tosey teaches a computer network that is always available. This, of course does not indicate where

in Law is the motivation to add the teachings of Tosey. In Law, each of the non-fault tolerant nodes are connected to the fault tolerant node by a dedicated connection. In Law, data is sent to the first non-fault tolerant node over the first connection. If that fails, Law simply moves to the next non-fault tolerant node and its dedicated connection. This continues, limited by the number of non-fault tolerant nodes. In no case is there a need to look up a stored network address, therefore there is no need to store these addresses. Since Law selects the node to use based on a simple sequence, the addition of a routing table would not make Law any more efficient. Also, routing tables of Tosey are used because there are multiple paths between the elements of the network in Tosey. In Law, there is only one dedicated path. Thus, there is nothing in Law that provides motivation to make the combination proposed by the Examiner. Therefore, this rejection should be withdrawn.

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II.   CONCLUSION

It is respectfully submitted that the above-identified application, as amended, is now in condition for allowance and such allowance is therefore earnestly requested by the Applicant. Should the Examiner have any questions or wish to further discuss the above-identified patent application, the Applicant requests that the Examiner contact the undersigned at (480) 385-5060.

If for some reason the Applicant has not requested a sufficient extension and/or have not paid a sufficient fee for this response and/or for the extension necessary to prevent abandonment of this application, please consider this as a request for an extension for the required time period and/or authorization to charge Deposit Account No. 50-2091 for any fee which may be due.

Respectfully submitted,

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